

(h) For any crop acreage for which crop insurance or NAP coverage is canceled, those acres will no longer be considered the initial crop and will, therefore, no longer be eligible for SURE.

(i) Notwithstanding any other provisions of these or other applicable regulations that relate to tolerance in part 718 of this title, if a farm has a crop that has both FSA and RMA acreage for insured crops, payment acres for the SURE guarantee calculation will be based on acres for which an indemnity was received if RMA acres do not differ from FSA acres by more than the larger of 5 percent or 10 acres not to exceed 50 acres. If the difference between FSA and RMA acres is more than the larger of 5 percent or 10 acres not to exceed 50 acres, then the payment acres for the SURE guarantee will be calculated using RMA acres. In that case, the participant will be notified of the discrepancy and that refunds of unearned payments may be required after FSA and RMA reconcile acreage data.

§ 760.633 2008 SURE guarantee calculation.

(a) For a participant who is eligible due to the 2008 buy-in waiver for risk management purchase under the provisions of § 760.105(c), the SURE guarantee for their farm for the 2008 crop will be calculated according to § 760.631, or according to § 760.634 for value loss crops, with the exception that the:

(1) Price election in § 760.631(a)(1)(i) is 100 percent of the NAP established price for the crop;

(2) Coverage level in § 760.631(a)(1)(iv) is 70 percent; and

(3) The percent specified in § 760.631(a)(2)(iv) is 70 percent instead of 50 percent; and

(4) Coverage level used in § 760.634(a)(1)(ii) is 70 percent; and

(5) The percent specified in § 760.634(a)(2)(ii) is 70 percent instead of 50 percent.

(b) For those 2008 crops that meet the requirements of § 760.104, § 760.105(a), § 760.106, or § 760.107, the SURE guarantee will be the higher of:

(1) The guarantee calculated according to § 760.631, or according to § 760.634 for value loss crops, with the exception that the percent specified in

§§ 760.631(a)(1) and 760.634(a)(1) will be 120 percent instead of 115 percent;

(2) The guarantee calculated according to § 760.631, or according to § 760.634 for value loss crops, will be used with the exception that the:

(i) Price election in § 760.631(a)(1)(i) is 100 percent of the NAP established price for the crop; and

(ii) Coverage level in §§ 760.631(a)(1)(iv) and 760.634(a)(1)(ii) will be 70 percent; and

(iii) The percent specified in §§ 760.631(a)(2)(iv) and 760.634(a)(2)(ii) will be 70 percent instead of 50 percent.

§ 760.634 SURE guarantee for value loss crops.

(a) The SURE guarantee for value loss crops will be the sum of the amounts calculated in paragraphs (a)(1) and (a)(2) of this section, except as otherwise specified.

(1) For each insurable crop on the farm, 115 percent of the product obtained by multiplying:

(i) The value of inventory immediately prior to disaster, and

(ii) The coverage level elected by the participant. If a coverage level was not elected or a participant is eligible as specified in §§ 760.106 or 760.107, a coverage level of 27.5 percent will be used in the calculation.

(2) For each noninsurable crop on the farm, 120 percent of the product obtained by multiplying:

(i) The value of inventory immediately prior to a disaster, and

(ii) 50 percent.

(b) Aquaculture participants who received assistance under the Aquaculture Grant Program (Pub. L. 111-5) will not be eligible for SURE assistance on those species for which a grant benefit was received under the Aquaculture Grant Program for feed losses associated with that species.

(c) In the case of an insurable value loss crop for which crop insurance provides for an adjustment in the guarantee, liability, or indemnity, such as in the case of inventory exceeding peak inventory value, the adjustment will be used in determining the SURE guarantee for the insurable crop.

(d) In the case of a noninsurable value loss crop for which NAP provides

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for an adjustment in the level of assistance, such as in the case of unharvested field grown inventory, the adjustment will be used in determining the SURE guarantee for the noninsurable crop.

§ 760.635 Total farm revenue.

(a) For the purpose of SURE payment calculation, total farm revenue will equal the sum obtained by adding the amounts calculated in paragraphs (a)(1) through (a)(12) of this section.

(1) The estimated actual value for each crop produced on a farm, except for value loss crops, which equals the product obtained by multiplying:

(i) The actual production of the payment acres for each crop on a farm for purposes of determining losses under FCIA or NAP; and

(ii) NAMP, as calculated for the marketing year as specified in § 760.640 and as adjusted if required as specified in § 760.641.

(2) The estimated actual value for each value loss crop produced on a farm that equals the value of inventory immediately after disaster.

(3) 15 percent of the amount of any direct payments made to the participant under part 1412 of this title.

(4) The total amount of any counter-cyclical and average crop revenue election payments made to the participant under part 1412 of this title.

(5) The total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the participant under parts 1421 and 1434 of this title.

(6) The amount of payments for prevented planting.

(7) The amount of crop insurance indemnities.

(8) The amount of NAP payments received.

(9) The value of any guaranteed payments made to a participant in lieu of production pursuant to an agreement or contract, if the crop is included in the SURE guarantee.

(10) Salvage value for any crops salvaged.

(11) The value of any other disaster assistance payments provided by the Federal Government for the same loss for which the eligible participant applied for SURE.

(12) For crops for which the eligible participant received a waiver under the provisions of § 760.105(c) or obtained relief according to § 760.106, the value determined by FSA based on what the participant would have received, irrespective of any other provision, if NAP or crop insurance coverage had been obtained.

(b) Sale of plant parts or by-products, such as straw, will not be counted as farm revenue.

(c) For value loss crops:

(1) Other inventory on hand or marketed at some time other than immediately prior to and immediately after the disaster event are irrelevant for revenue purposes and will not be counted as revenue for SURE.

(2) Revenue will not be adjusted for market loss.

(3) Quality losses will not be considered in determining revenue.

(4) In no case will market price declines in value loss crops, due to any cause, be considered in the calculation of payments for those crops.

§ 760.636 Expected revenue.

The expected revenue for each crop on a farm is:

(a) For each insurable crop, except value loss crops, the product obtained by multiplying:

(1) The SURE yield as specified in § 760.638;

(2) The payment acres as specified in § 760.632; and

(3) 100 percent of the price for the crop used to calculate a crop insurance indemnity for an applicable policy of insurance if a crop insurance indemnity is triggered. If a price is not available, then the price is 100 percent of the NAP established price for the crop, and

(b) For each noninsurable crop, except value loss crops, the product obtained by multiplying

(1) The SURE yield as specified in § 760.638;

(2) The payment acres as specified in § 760.632; and

(3) 100 percent of the NAP price.

(c) For each value loss crop, the value of inventory immediately prior to the disaster.